


OLL 85-0294/1
12 February 1985

MEMORANDUM FOR: Acting Chief, Administrative Law Division, OGC
Deputy Chief, Intelligence Community Division
OGC

FROM:


Legislation Division, OLL

STAT

SUBJECT:

Request for Comments: Draft DoD Proposal to
Amend APA To Authorize Government-Issued
Subpoenas in Withdrawal-of-Security-Clearance
Cases

1. Attached for your review and comment is a copy of a proposal by the Department of Defense to amend existing provisions of 5 U.S.C. §304 (a), the section of the Administrative Procedures Act (APA) dealing with the issuance of subpoenas in APA proceedings.

2. The proposal has been sent to this office for comment by the Office of Management and Budget. I would appreciate your comments by February 20, 1985.

3. Currently under the APA, the government may apply for the issuance of a subpoena to compel the taking of testimony only in those instances where the action has been instituted against the government. This proposal would change that to permit application to be made in those instances where the government has instituted a proceeding to withdraw an individual's security clearance.

4. I understand the Agency takes the position that proceedings by the Agency to withdraw an individual's security clearance are not conducted under the APA. Accordingly, I would assume we would have no objection to this proposal.

5. I would, however, appreciate your comments.


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